

DECISION

THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D. C. 20548

Smith

28162

FILE:

B-213516

DATE: May 1, 1984

MATTER OF:

R.E. Carlson, Inc.

DIGEST:

1. Protest that awardee's failure to inspect site where services are to be performed is without merit as solicitation language requested site visit without making it mandatory.
2. Protester's complaint that it could have offered lower prices if it had offered replacement parts provides no basis for sustaining protest where protester had opportunity to quote on that basis but did not do so.

R.E. Carlson, Inc. protests the award of a purchase order to National Pump & Controls, Inc. under request for quotations (RFQ) No. 36-18-83, issued by the Department of Agriculture for replacement of steam trap elements at its Metabolism and Radiation Research Laboratory in Fargo, North Dakota. Carlson contends that the award was improper because National did not visit the site or offer brand name parts as required by the solicitation. We deny the protest in part and dismiss it in part.

The solicitation called for prices on nine different items to be replaced and stated "Site Visit is Requested Before Award." The agency received six quotations on the September 7, 1983 closing date. National submitted the low quotation while Carlson's was next low. The agency submitted the quotations to the architect-engineer (A-E) firm responsible for the project; it advised the agency that National and Carlson each offered different types of parts for solicitation items 6 and 7. Item 6 was for "Valve seats and diaphragms assembly for Webster #702-1/2" thermostatic traps." Item 7 called for "#502 Webster therm traps." The A-E firm informed the agency that Carlson offered "exact replacement parts" manufactured by Dunham Corporation. Apparently, Dunham previously had purchased the original manufacturer, Webster. National, according to the A-E firm, offered "replacement parts" it manufactured. Since the A-E firm believed that the solicitation did not

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specifically state that "equivalent replacement parts" could not be used and in view of the industry practice to use equivalent replacement parts, it suggested that the agency contact the competing firms and permit them to offer prices on both types of parts.

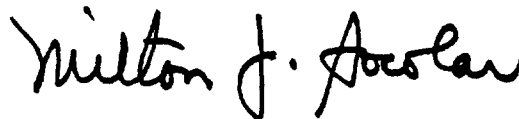
The contracting officer reports that the agency contacted both Carlson and National, informed them that equivalent replacement parts were acceptable, and gave them the opportunity to amend their quotations. National received the award as the low quoter.

Carlson contends that the award to National is invalid because that firm did not visit the site as required in the solicitation. We agree with the agency's position that a site visit was not a prerequisite to submitting an acceptable quotation. First, the solicitation stated that a site visit was requested, not that such a visit was required. Further, even if the solicitation provision was mandatory, the failure to make such an inspection would not require the rejection of a quotation; rather, such a provision is generally meant only as a warning that by failing to visit the site an offeror assumes any risk of increased performance costs due to observable site conditions. It does not affect the firm's offer to perform in accordance with the terms of the solicitation. See Edw. Kocharian & Co., Inc., 58 Comp. Gen. 214 (1979), 79-1 CPD 20.

Carlson also asserts that had it offered replacement parts instead of those made by the original manufacturer its quote would have been lower. Since the contracting officer reports that Carlson was given the opportunity to quote on such a basis, Carlson must accept the consequences of its decision not to do so. If Carlson is disputing the agency's decision to accept equivalent replacement parts, this contention is untimely because Carlson learned of the agency's willingness to accept replacement parts in September but first raised the issue in its December 19 response to the agency's report on the protest. Our Bid Protest Procedures, 4 C.F.R. § 21.2(b)(2) (1983), require protests of other than solicitation improprieties to be filed within 10 working days after the basis of protest is known or should have been known, whichever is earlier.

Carlson also refers to items 8 and 9 of the solicitation contending that since it offered Trane parts for those items "it would definitely appear we were not bidding apples to apples." It appears that Carlson is arguing that National did not offer Trane parts. The record contains a letter dated September 13, from National to the A-E firm, which states that National offered parts from the "original equipment manufacturer" in response to items 8 and 9. Since the solicitation specified Trane parts, it appears that National in fact offered parts manufactured by Trane.

The protest is denied.

A handwritten signature in black ink, reading "Milton J. Auer". The signature is written in a cursive style with a large, prominent "M" and "A".

Acting Comptroller General
of the United States